

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

----

THE PEOPLE,

Plaintiff and Respondent,

v.

ERIC JEFFREY BURLEIGH,

Defendant and Appellant.

C060563

(Super. Ct. No.  
CM023004)

In 2005, defendant Eric Jeffrey Burleigh failed to stop his car at a stop sign and hit a pedestrian in the crosswalk. The victim sustained serious injuries. Defendant admitted to officers that he had consumed beer and smoked marijuana prior to the collision. His blood alcohol content was 0.15 percent.

With the promise that a great bodily injury enhancement would be dismissed and that he would not be sentenced to prison at the outset, defendant entered negotiated pleas of guilty to driving under the influence of alcohol causing injury (Veh. Code, § 23153, subd. (a)) and driving with a blood alcohol content of

0.08 percent or more causing injury (Veh. Code, § 23153, subd.

(b)). In accordance with the plea agreement, the imposition of sentence was suspended and defendant was placed on probation with conditions, among other things, that he serve 120 days in jail, obey all laws, and refrain from possessing or using any controlled substance or alcoholic beverage.

In 2006, defendant admitted violating probation by failing to obey all laws, namely by resisting arrest (Pen. Code, § 148, subd. (a)). He was reinstated on probation with conditions that included he serve an additional 120 days in jail.

In 2007, defendant violated probation by unlawfully taking or driving a vehicle (Veh. Code, § 10851, subd. (a)), a misdemeanor, to which he pled no contest in case No. CM27408. He was reinstated on probation for an extended term and on conditions that included he enter and complete a residential drug treatment program.

In May 2008, defendant admitted violating probation by failing to provide a sample for a drug test and then later testing positive for methamphetamine. He was reinstated on probation with an added condition that he participate in a 12-step program and complete eight hours of community service.

In June 2008, defendant admitted violating probation by testing positive for methamphetamine. Again, he was reinstated on probation with an additional condition that he serve two days in jail.

In October 2008, defendant admitted violating probation by testing positive for alcohol.

Probation was revoked, and defendant was sentenced to state prison for the upper term of three years for violating Vehicle Code section 23153, subdivision (a). As factors in aggravation, the trial court cited the seriousness of the victim's injuries and the fact that defendant failed to take care of his known alcohol and addiction problem prior to the offense. The imposition of sentence for defendant's violation of Vehicle Code section 23153, subdivision (b) was stayed pursuant to Penal Code section 654, and a consecutive term of one year in county jail was imposed in case No. CM27408 for his misdemeanor violation of Vehicle Code section 10851, subdivision (a).

Defendant appeals. He did not obtain a certificate of probable cause (Pen. Code, § 1237.5).

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and asks us to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

The judgment is affirmed.

\_\_\_\_\_  
SCOTLAND, P. J.

We concur:

\_\_\_\_\_  
HULL, J.

\_\_\_\_\_  
ROBIE, J.